IN THE HIGH COURT OF DELHI

Crl.M.C. No.2194/2005

Devender Raina ..... Petitioner
! through: Mr.Avtar Singh, Adv.

VERSUS

$ The State & Anr. ..... Respondents
^ through: Mr.Pawan Sharma for the State.
None for respondent No.2.

% DATE OF DECISION: 12.10.2007

CORAM:

* **Hon'ble Mr.Justice Pradeep Nandrajog**

1. Whether reporters of local papers may be allowed to see the judgment? Y

2. To be referred to the Reporter or not? Y

3. Whether judgment should be reported in Digest? Y

: **PRADEEP NANDRAJOG, J.**

1. Petitioner Devender Raina seeks quashing of the order dated 30.9.2007 summoning him to face trial for an offence under Section 138 of the Negotiable Instruments Act, 1881.

2. Devender Raina is alleged to be the Vice President of accused No.1, M/s.Viniyoga Clothex Ltd., a company registered under the Companies Act. One Vinay Bagla, stated to be its Chairman and Managing Director has been impleaded as accused No.2.

3. As per the complaint, vide para 2, it is stated that being Vice President of accused No.1 petitioner negotiated on behalf of accused No.1 for air-lifting consignment by the complainant on behalf of accused No.1 and that in respect of services rendered by the complainant was instrumental in accused No.1 issuing a cheque No.250396 in sum of Rs.1.1 lacs.

4. It is further averred in the complaint that petitioner wrote a letter dated 14.2.1996 assuring payments due to the complainant.

5. It is urged by learned counsel for the petitioner that he i.e. the petitioner has no concerned with M/s.Viniyoga Clothex Ltd. That petitioner is employed with a sister concern viz. M/s.Viniyoga International Ltd. That he had no concern with accused No.1. That letter dated 14.12.1996 has been addressed by the petitioner on behalf of M/s.Viniyoga International Ltd.

6. It does happen that where 2 concerns, under same management are operating from the same premises, a wrong letterhead is used. In this connection, I have specifically inquired from learned counsel for the petitioner whether M/s.Viniyoga International Ltd. had any outstanding dues payable to the complainant and whether letter dated 14.12.1996, as a matter of fact deals and refers to the outstanding liability of M/s.Viniyoga

International Ltd.

7. Learned counsel for the petitioner has no answer.

8. Thus, it becomes a debatable issue, whether the letter in question though written on the letterhead of M/s.Viniyoga International Ltd., does or does not refer to the liability of accused No.1; further question would arise, whether petitioner has acted on behalf of accused No.1 or not.

9. Be that as it may, in the complaint there is a specific plea that petitioner is the Vice President of accused No.1 and negotiated with the complainant in respect of the transaction and held out assurances that liability would be cleared pertaining to air-freight etc. for the consignments which were received by the complainant for onward delivery to the consignees.

10. This issue requires evidence for its resolution.

11. No case is made out to quash the order dated 30.9.2007 summoning the petitioner to face trial.

12. Petition is dismissed.

October 12, 2007 **(PRADEEP NANDRAJOG)**
dk **JUDGE**